 <b>CD-090700</b>	<b>NEW MEXICO CORRECTIONS DEPARTMENT</b>	<b>ISSUE DATE:</b> 09/24/83 <b>EFFECTIVE DATE:</b> 09/19/83 <b>REVIEW/REVISED:</b> 07/27/05
	<b>TITLE: Polygraph Testing</b>	

**AUTHORITY:**

- A. NMSA 1978, Section 33-1-6, as amended.
- B. Policy *CD-010100*.

**REFERENCE:**

- A. Garity v. New Jersey, 385 U. S. 87 (1967).
- B. Piotrowski v. State Police Merit Board, (111. App. 1980).
- C. Justice v. City of Casa Grande, 567 P.2d 1195 (Ariz. App. 1977).
- D. Policy *CD-031800*.

**PURPOSE:**

To resolve serious allegations regarding misconduct that cannot be resolved in any other logical manner through the administering of a polygraph examination.

**APPLICABILITY:**

All Corrections Department employees, all contractor employees working for the Corrections Department, and all inmates within the custody of the Department.

**FORMS:**

None

**ATTACHMENTS:**

None

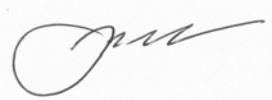
**DEFINITIONS:**

- A. Accusant: A person who makes an accusation of misconduct against an employee of the department or other person.

- B. Accused: A person who is accused of misconduct.
- C. Employee: Any person hired by the New Mexico Corrections Department.
- D. Polygraph Examination: An instrument for recording a person's physiological reactions to questioning on a particular subject; a "lie detector" test.
  - a. Court Qualified: A polygraph examination that qualifies for court and may be used as evidence in court proceedings, pursuant to the Rules of Evidence.
  - b. Non-Court Qualified: A polygraph examination that does not qualify for and cannot be used as evidence in court proceedings, pursuant to the Rules of Evidence.
- E. Polygraphist: A person trained and certified in the administration of a polygraph examination.
  - a. Staff Polygraphist: A Polygraphist who is an employee of the Corrections Department.
  - b. Law Enforcement Polygraphist: A Polygraphist who is an employee of an outside Law Enforcement Agency.
  - c. Contract Polygraphist: A Polygraphist who does or will have a contract with the Corrections Department to conduct polygraph examinations.

**POLICY:**


- A. Polygraph examinations may be used as an investigative tool to resolve serious allegations of misconduct in instances where all other reasonable investigative techniques have been exhausted and other techniques are deemed impractical or ineffective.
- B. If deemed necessary, an employee may be required to submit to a polygraph examination, subject to the provisions of *CD-031800*. If the employee refuses to comply, he/she may be subject to disciplinary action up to and including dismissal.
- C. Pre-employment polygraph examinations may be administered to those persons applying for correctional officer positions.



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Joe R. Williams, Secretary of Corrections  
New Mexico Corrections Department

07/27/05  
Date

 <b>CD-090701</b>	<b>NEW MEXICO CORRECTIONS DEPARTMENT</b>	<b>ISSUE DATE: 09/24/83</b> <b>EFFECTIVE DATE: 09/19/83</b> <b>REVIEW/REVISED: 07/27/05</b>
	<b>TITLE: Polygraph Testing</b>	

**AUTHORITY:**

Policy *CD-090700*

**PROCEDURES:**

**A. APPROVAL:**

1. The respective warden or division director, or designee, shall review all requests for the use of a polygraph examination within their scope of authority.
2. If the respective warden or division director or designee determines that there is a valid need to pursue a polygraph examination, he/she shall forward the request to the appropriate Deputy Secretary for approval.
3. If a departmental investigator or other personnel assigned to investigate allegations of misconduct determines that a polygraph examination is necessary, the request for a polygraph shall be forwarded to the investigator's Division Director for review unless otherwise directed by the Deputy Secretary or Secretary.
4. The Deputy Secretary or designee shall review the request for a polygraph examination
  - a. If the Deputy Secretary or designee determines that the request is valid, he/she shall approve the request and notify the person submitting the request.
  - b. The Secretary or designee shall review the request and determine whether to If the Deputy Secretary or designee determines that the request is not valid or if further investigation or justification is needed for such an approval, he/she shall return the request to the respective warden or division director for appropriate action.
5. Approve or deny the request for a polygraph examination.
6. If the Deputy Secretary or designee approves the use of a polygraph examination, the requesting warden, division director or investigator shall make the necessary arrangement for scheduling the polygraph examination with the appropriate polygraph testing agency or polygraphist.

The use of a specific polygraphist or polygraph testing agency shall be at the discretion of the respective warden, division director or investigator, subject to established departmental procedures.

7. There are many considerations in determining the appropriate polygraphist or agency to use on any particular case. This determination shall be made on a case-to-case basis.

**B. GENERAL GUIDELINES:**

1. The use of polygraph examinations shall be considered when a reasonable application of other investigative techniques fail to produce conclusive results to serious allegations. Consideration shall be given in determining the most appropriate polygraphist to conduct a particular polygraph. Under normal circumstances, the following guidelines shall be adhered to:
  - a. A Staff Polygraphist shall normally be used to administer a polygraph test to an inmate and when deemed appropriate, may also be used to polygraph an employee.
  - b. A Court Qualified Contract Polygraphist shall normally be used to administer a polygraph test to Corrections Department employees, when there is reason to believe that the employee may be subject to formal disciplinary action and that the polygraph results might be introduced into evidence. When deemed appropriate, a contract polygraphist may be used to administer a polygraph test to an inmate.
  - c. A Law Enforcement Polygraphist shall normally be used for Corrections Department employees or inmates when the investigation is primarily regarding matters of a criminal nature.
2. When an allegation rests solely upon the accusation of an inmate or a staff member, the Department may require that a sworn statement be provided by the accusant. The accusant may, in the Department's discretion, be required to submit to a polygraph examination to verify the allegations raised against the accused before further investigation proceeds.

The results of the polygraph examination, along with any other evidence that exists, shall determine the Department's further course of action.

3. If the accusant refuses to sign a sworn statement or to submit to a polygraph examination if requested, the investigation may be terminated unless it has been determined that other sufficient, credible evidence exists to pursue further action.

4. If an employee of the Department refuses to submit to a polygraph examination when directed to do so, or if an employee submits to a polygraph examination and the results of the polygraph examination show conclusively that the employee was not truthful in his/her statements, the employee may be subject to appropriate disciplinary action.
5. If an accused employee denies the allegations of misconduct and then takes a polygraph examination and the results show conclusively that the employee is being truthful in denying the allegations, the investigation will ordinarily be terminated and the employee informed that no disciplinary action will be taken against him or her, unless there exists other compelling evidence that the accused employee engaged in the alleged misconduct or some other misconduct.
6. An employee's refusal to comply with any procedure deemed necessary by the Corrections Department, Polygraph Testing Agency, or Polygraphist in the administration of the polygraph examination, shall be considered a refusal to take the polygraph examination and subject to disciplinary action, up to and including dismissal.

#### **C. POLYGRAPH EXAMINATION:**

In all allegations against an employee of a serious nature where a polygraph examination has been deemed necessary, procedures shall be subject to the provisions of *CD-031800*, **"Office of Special Investigations and Internal Affairs "SIIA" Personnel Investigations and Staff Misconduct Reporting."**



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Joe R. Williams, Secretary of Corrections  
New Mexico Corrections Department

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Date